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Attorneys for Defendant

5 DESERT VIEW REGIONAL MEDICAL CENTER HOLDINGS, LLC

6 **UNITED STATES DISTRICT COURT**

7 **DISTRICT OF NEVADA**

8 SIE ERVINE, as an individual and as Executor of
the Estate of CHARLENE ELAINE ERVINE,
9 deceased; and DOES I-X individuals

10 Plaintiffs,

11 v.

12 DESERT VIEW REGIONAL MEDICAL CENTER
HOLDINGS, LLC, a domestic corporation;
13 GEORGES TANNOURY, M.D. a domestic
corporation; SPECIALTY MEDICAL CENTER, a
14 business entity; DOCTOR GEORGES
TANNOURY, AN INDIVIDUAL; KERRY
15 MALIN, an individual; KERRY MALIN, a
Physician Assistant; and, ROES I-X

16 Defendants.
17

Case Number: 2:10-cv-01494-JCM-GWF

**STIPULATION and ORDER regarding
GOOD FAITH SETTLEMENT**

18 IT IS HEREBY STIPULATED, by PLAINTIFF SIE ERVINE, as an individual and as
19 Executor of the Estate of CHARLENE ELAINE ERVINE, deceased through their attorneys of
20 record, Dale H. Boam, Esq., of the law firm Dale H. Boam PC and/or Norman N. Hirata, Esq.,
21 DEFENDANT DESERT VIEW REGIONAL MEDICAL CENTER HOLDINGS, LLC (“Desert
22 View”) through its attorney Eric Stryker, Esq. of Wilson, Elser, Moskowitz, Edelman & Dicker,
23 LLP, and DEFENDANTS GEORGES TANNOURY, M.D. a domestic corporation and GEORGES
24 TANNOURY, M.D., individually through their counsel Erin Jordan, Esq., of the law firm Lewis,
25 Brisbois, Brisgaard & Smith, LLP that each and every claim arising out of this matter against
26 Defendant Desert View both stated and unstated, including any present or potential claim,
27 counterclaim, cross-claim and/or third-party claim, be dismissed with prejudice, each party to bear
28 their own costs and attorney’s fees.

1 IT IS HEREBY FURTHER STIPULATED by the above parties that Defendant Desert
2 View's confidential settlement agreement dated and signed on 12/13/2016 with Plaintiffs was
3 entered into in good faith pursuant to NRS §17.245. All the terms and conditions of the 12/13/2016
4 settlement agreement are hereby incorporated into this STIPULATION and ORDER.

5 Plaintiffs and Defendant Desert View engaged in arm's length negotiations and reached a
6 confidential settlement agreement at a formal mediation attended by all parties. All parties have been
7 made aware of the confidential settlement amount, and Defendant Desert View will provide the
8 Court with the settlement amount for in camera review so that it can confirm that the settlement
9 amount was indeed in good faith as the parties have stipulated.

10 The Nevada Supreme Court has interpreted the requirement of 'good faith' under NRS
11 §17.245 and found several factors persuasive in such a determination: (1) the amount paid in
12 settlement; (2) the allocation of settlement proceeds among plaintiffs; (3) the insurance policy limits
13 of the settling defendant; (4) the financial condition of the settling defendant; and (5) the existence of
14 collusion, fraud or tortuous conduct aimed to injure the interests of the non-settling defendants.
15 *Velsicol Chem. Corp. v. Davidson*, 107 Nev. 356, 361-362, 811 P.2d 561, 563 (1991).

16 The parties stipulate that all the factors in *Velsicol* have been met in Defendant Desert
17 View's confidential settlement agreement with Plaintiffs. The parties stipulate that Desert View's
18 settlement amount is reasonable in light of its proportional alleged potential liability.

19 The parties stipulate that Desert View did not engage in any collusion, fraud, or tortuous
20 conduct aimed to injure DEFENDANTS GEORGES TANNOURY, M.D. a domestic corporation
21 and DOCTOR GEORGES TANNOURY, individually, and said Defendants have agreed that the
22 settlement is in good faith.

23 ...

24 ...

25 ...

Therefore, the parties stipulate that Desert View's confidential settlement with Plaintiffs was entered into in good faith pursuant to NRS §17.245, and jointly request an order confirming same to allow consummation of Desert View's settlement with Plaintiffs.

DATED this 26th day of March, 2017.

/s/ Norman Hirata

Norman N. Hirata, Esq.
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Las Vegas, NV 89134
Attorney for Plaintiff
or
Dale H. Boam
Utah Bar No.: 10384 (Pro Hac Vice)
4776 South Wander Lane
Salt Lake City, UT 84117
Attorney for Plaintiff

DATED this 29th day of March, 2017.

**WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP**

DATED this 29th day of March, 2017.

**LEWIS BRISBOIS BISGAARD & SMITH
LLP**

/s/ Eric Stryker

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*Desert View Regional Medical Center
Holdings, LLC*

/s/ Erin Jordan

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*Attorneys for Defendants Georges Tannoury,
MD; Speciality Medical Center; Doctor
Georges Tannoury; Karry Malin and Kerry
Malin, PA*

ORDER

IT IS HEREBY ORDERED, pursuant to the Stipulation of the parties hereto, that each and every cause of action against Defendant Desert View arising out of this litigation, including any present or potential claim, counterclaim, cross-claim and third-party claim of the parties herein, are dismissed with prejudice, each party to bear their own costs and attorney's fees.

1 IT IS FURTHER ORDERED that the confidential settlement agreement entered into by and
2 between Plaintiffs and Defendant Desert View, has been entered into in good faith, in contemplation
3 of NRS §17, 245, and that this Stipulation and Order for Dismissal may be used as an affirmative
4 defense to any and all claims and actions for contribution and/or equitable indemnity arising from
5 the circumstances in this matter.

6 **ORDER**

7 IT IS SO ORDERED.

8
9 DATED April 12, 2017.

10 
11 U.S. DISTRICT COURT JUDGE

12 Submitted by,

13 **WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP**

14 /s/ Eric Stryker
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19 Attorneys for Defendant
20 *Desert View Regional Medical Center Holdings, LLC*
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